LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS
200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
http://www.in.gov/legislative

FISCAL IMPACT STATEMENT

LS 6780
BILL NUMBER: HB 1074

NOTE PREPARED: Jan 13, 2012
BILL AMENDED:

SUBJECT: Taxation of Racetrack Casinos.

FIRST AUTHOR: Rep. Espich
FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: *15% Racino AGR Set Aside to Horse Racing:* The bill reduces the percentage of the horse racing set aside that must be used to support horse racing (after making certain statutorily required payments) from 97% to 39.5%. It caps the amounts distributed to support horse racing at $27,000,000. It provides that amounts exceeding $27,000,000 must be deposited in the State General Fund. It provides that 57.5% of the set aside must be deposited in the State General Fund. It provides for the daily payment of amounts that must be deposited in the State General Fund. It specifies that $0.65 of each riverboat admissions tax collection is paid to the State General Fund. It also makes conforming changes, repeals an unused definition, and repeals a statute governing the transition from using riverboat admissions taxes to support horse racing to using slot machine revenues from racetrack casinos.

Racino Slot Machine Wagering Tax: The bill changes the tax base of the slot machine wagering tax from adjusted gross receipts to taxable receipts beginning January 1, 2012. It also defines taxable receipts as adjusted gross receipts minus amounts paid to support the horse racing industry.

Effective Date: January 1, 2012 (retroactive); July 1, 2012.

Explanation of State Expenditures:

Explanation of State Revenues: *Summary* - The bill changes (1) the base for the racino slot machine wagering tax and (2) the distribution of the 15% racino AGR set aside to horse racing purposes.

(1) The bill reduces the racino slot machine wagering tax base to 85% of adjusted gross wagering receipts (AGR) generated at a racino beginning on January 1, 2012. The reduction in the slot machine wagering tax

base would be from: (1) 100% to 85% of AGR from January 1, 2012, to June 30, 2012; and (2) from 99% to 85% of AGR beginning July 1, 2012. The reduction in the tax base to 85% of AGR would have no fiscal impact as discussed below under *Background Information*.

(2) The bill changes the distribution formula for the racino payment to horse racing to direct more of this revenue to the state General Fund. The distribution change begins in FY 2013. The new distribution formula will lower current distributions for purposes of horse racing purses and for state breed development funds, and will establish a percentage distribution to the state General Fund. The net impact to state funds from the distributional change is presented in the table below.

Impact in Million $	**FY 2013**
State General Fund	$28.0
Thoroughbred Development Fund	(5.2)
Standardbred Development Fund	(6.5)
Quarter Horse Development Fund	(0.7)
Net Impact	$15.6

Background Information: *Racino Slot Machine Wagering Tax* - The bill reduces the racino slot machine wagering tax base to 85% of adjusted gross wagering receipts (AGR) generated at a racino beginning on January 1, 2012. The reduction in the tax base to 85% of AGR would have no fiscal impact because: (1) this codifies the U.S. Bankruptcy Court ruling on the imposition of the slot machine wagering tax under *In re Indianapolis Downs, LLC., et al.,Case No. 11-11046 (BLS) (Bankr. D.DE 2011)*; and (2) the Revenue Technical Committee forecast (December 14, 2011) for the slot machine wagering tax was reduced to account for the revenue impact of the Court ruling and the actions by both racinos to begin remitting the wagering tax based on 85% of AGR in accordance with the Court ruling. The reduced remittances by the racinos began in November 2011 (Indy Live on November 1st and Hoosier Park on November 9th). The Revenue Technical Committee forecast for the slot machine wagering tax was reduced by $16 M in FY 2012 and $20.4 M in FY 2013 to account for the change in remittances. It is estimated that refunds of slot machine wagering tax paid on the 15% of AGR distributed to horse racing purposes and the state General Fund could potentially total $65 M.

Under current statute, the racinos are required to pay 15% of AGR generated during the fiscal year for the following purposes: (1) the state Gaming Integrity Fund; (2) the state Breed Development Funds; (3) private horsemen's associations; (4) horse racing purses; and (5) the state General Fund. Under *In re Indianapolis Downs, LLC., et al.,Case No. 11-11046 (BLS) (Bankr. D.DE 2011)*, the Court heard a motion by Indianapolis Downs (owner of the Indy Live racino) for a determination of the legality of the slot machine wagering tax being imposed on all AGR amounts generated by the racinos, including the 15% of AGR distributed to various horse racing purposes and the state General Fund. The court ruled that the tax not be imposed on this 15% AGR distribution. In addition, the court granted a request by Hoosier Park (involved in a bankruptcy proceeding in the same Court) to join Indianapolis Downs' position. Consequently, the Court's ruling applies to both racinos.

15% Racino AGR Set Aside to Horse Racing - Under current statute, the racinos are required to pay 15% of their annual slot machine adjusted gross wagering receipts (AGR) to the following purposes: (1) the state

Tobacco Master Settlement Agreement Fund; (2) the state Gaming Integrity Fund; (3) equine promotion and welfare; (4) backside benevolence; (5) the state Breed Development Funds; (6) private horsemen's associations; and (7) horse racing purses. Current statute also has an inflationary limit on the annual payment to the horse racing purposes specified in (1) through (5) that currently directs money to the state General Fund. Under this provision, if 15% of a racino's AGR in a fiscal year exceeds the 15% payment made by the racino in the prior fiscal year increased by the inflation rate, the excess is transferred to the state General Fund. The bill would eliminate this provision, and instead capture revenue for the state General Fund directly through a specified percentage distribution and by redirecting to the state General Fund revenue exceeding $27 M annually from the distribution to breed development, horsemen's associations, and purses.

The following tables illustrate the change in estimated AGR distributions for FY 2013 due to the distribution formula change proposed in the bill and provide a comparison of the current distribution formula to the distribution formula proposed in the bill. The FY 2013 distribution estimates are based on the Revenue Technical Committee Forecast (December 14, 2011) of racino AGR.

Change in Distribution of 15% Racino AGR Set Aside Due to Proposed Distribution Formula	
Purpose	**Revenue Gain (Loss)**
Indiana Tobacco Master Settlement Agreement Fund	0.0
Gaming Integrity Fund	0.0
Equine Promotion and Welfare	29,000
Backside Benevolence	147,000
Thoroughbred Purposes	
Purses	(7.5 M)
HPBA**	(187,000)
TB O&B Assoc.*	(47,000)
Breed Development	(5.2 M)
Standardbred Purposes	
State Fair	0.0
County Fairs	0.0
Purses	(6.3 M)
SB Assoc.*	(227,000)
Breed Development	(6.5 M)
Quarter Horse Purposes	
Purses	(1.5 M)
QHRA*	(79,000)
Breed Development	(676,000)
State General Fund	28.0 M
*HPBA=Horsemen's Protective and Benevolent Association; TB O&B Assoc.=Thoroughbred Owners and Breeders Association; SB Assoc.=Standardbred Association; QHRA=Quarter Horse Racing Association.	

Distribution of 15% Racino AGR Set Aside		
Purpose	**Current**	**Proposed**
Indiana Tobacco Master Settlement Agreement Fund	$1.5 M	$1.5 M
Gaming Integrity Fund	$250,000	$250,000
From Remainder After Tobacco Settlement & Gaming Integrity		
Equine Promotion and Welfare	0.5%	0.5%
Backside Benevolence	2.5%	2.5%
State General Fund	N/A	57.5%
Breed Development, Horsemen's Assns., and Purses	97%	39.5% Up To Maximum of $27 M Combined From Both Racinos
From Amount for Breed Development, Horsemen's Associations and Purses.		
Thoroughbred Purposes	46%	46%
Purses & Assoc.	60%	60%
Purses	97%	97%
HPBA**	2.4%	2.4%
TB O&B Assoc.*	0.6%	0.6%
Breed Development	40%	40%
Standardbred Purposes	46%	46%
State Fair	$375,000	$375,000
County Fairs	$125,000	$125,000
From Remainder After State and County Fair Amounts		
Purses & Assoc.	50%	50%
Purses	96.5%	96.5%
SB Assoc.*	3.5	3.5
Breed Development	50%	50%
Quarter Horse Purposes	8%	8%
Purses & Assoc.	70%	70%
Purses	95%	95%
QHRA*	5%	5%
Breed Development	30%	30%
State General Fund**	See Prose	See Prose

*HPBA=Horsemen's Protective and Benevolent Association; TB O&B Assoc.=Thoroughbred Owners and Breeders Association; SB Assoc.=Standardbred Association; QHRA=Quarter Horse Racing Association.
**General fund capture of revenue under current law inflationary limit and under proposal to capture excess to breed development, horsemen's associations, and purses above $27 M described in prose.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of State Revenue; Indiana Horse Racing Commission.

Local Agencies Affected:

Information Sources: Revenue Technical Committee Forecast (December 14, 2011); In re Indianapolis Downs, LLC., et al.,Case No. 11-11046 (BLS) (Bankr. D.DE 2011).

Fiscal Analyst: Jim Landers, 317-232-9869.